

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison
Company (U 338-E) for Authority to Institute a
Rate Stabilization Plan with a Rate Increase and
End of Rate Freeze Tariffs.

Application 00-11-038
(Filed November 16, 2000)

Emergency Application of Pacific Gas and Electric
Company to Adopt a Rate Stabilization Plan.
(U 39 E)

Application 00-11-056
(Filed November 22, 2000)

Petition of THE UTILITY REFORM NETWORK for
Modification of Resolution E-3527.

Application 00-10-028
(Filed October 17, 2000)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING COMMENTS**

On December 27, 2002, the California Department of Water Resources (DWR) filed and served a Memorandum and an Application for Rehearing of Decision (D.) 02-12-045. DWR objects to the Decision's removal of \$29 million from DWR's requested 2003 revenue requirement.¹ Pursuant to a prior ruling on December 17, 2002, the time for responding to this submission was shortened to seven days. No responses were received within that time frame.

¹ The \$29 million corresponds to the cost of what D.02-12-045 refers to as a "demand reduction" program. DWR states that this should actually be called a "demand reserve" program.

DWR has submitted this Application for Rehearing as a non-party. DWR chose not to become a formal party to this proceeding.² As DWR states:

By filing this Application for Rehearing, the Department is not making a general appearance seeking to be a party in the above-captioned proceeding. Consistent with California Public Utilities Code § 1731(b), the Department understands that party status is not necessary to file an application for rehearing of a CPUC Decision. (Application for Rehearing, p. 1, fn. 1.)

The relevant portion of Public Utilities Code § 1731(b) reads:

After any order or decision has been made by the commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing.

DWR's Application for Rehearing has raised a legal issue regarding the proper interpretation of this code section, and specifically the ability of a non-party to seek rehearing of a Commission decision. Since resolution of this issue could have significant ramifications for both this and other Commission proceedings, the Commission is seeking comments on this issue from other interested parties.

Because DWR's Memorandum and Application also raise a number of other interesting issues on the merits, and since no responses were received within the shortened time period, we are also soliciting comments on any of the other issues raised by DWR.

² DWR did, however, agree to respond to limited discovery requests from other parties, and also agreed to provide witnesses and testimony in this and other proceedings. (*See, e.g.* Rate Agreement, Section 7.2.)

IT IS RULED that:

1. Comments responding to DWR's Application for Rehearing may be filed and served by parties to this proceeding no later than 5:00 p.m. on Tuesday, January 21, 2003. Service shall be electronic, and shall be to the service list in this proceeding, including Assigned Commissioners Lynch and Brown (lyn@cpuc.ca.gov and gfb@cpuc.ca.gov), Administrative Law Judge Allen (pva@cpuc.ca.gov), and Mary F. McKenzie (mfm@cpuc.ca.gov). Entities that have not provided an e-mail address shall be served by mail postmarked no later than January 21, 2003.

2. Comments should address the ability of a non-party to file an Application for Rehearing of a Commission decision, and whether DWR has met the requirements of Public Utilities Code § 1731(b). Comments are not limited to that issue. Parties may also comment on other issues raised by DWR's Memorandum and Application for Rehearing.

3. Notice is given that the issues raised by this matter may be addressed by the Commission at its scheduled meeting on January 30, 2003.

Dated January 13, 2003, at San Francisco, California.

/s/ PETER V. ALLEN

Peter V. Allen

Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Requesting Comments on all parties of record in this proceeding or their attorneys of record.

Dated January 13, 2003, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.